



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

SETH H. BRADSTREET III
COMMISSIONER
HENRY S. JENNINGS.
ACTING DIRECTOR

BOARD OF PESTICIDES CONTROL

March 16, 2007

Colby Thomas Rooms, Hampton Inn
425 Kennedy Memorial Drive, Waterville
(Exit 127 from I-95)

AGENDA

9:30 A.M.

1. Introductions of Board and Staff
2. Minutes of the February 16, 2006 Board Meeting

Presentation By: Henry Jennings
Acting Director

Action Needed: Amend and/or approve

3. Consideration of Pioneer Hi-Bred International's and Dow AgroSciences LLC Applications for Registration for Three Bt Corn Products

Pioneer Hi-Bred International, Inc., and Dow AgroSciences have submitted applications to register three Bt Corn products in the state of Maine. These products were jointly developed by the two companies and are identical. At its December 15, 2006 meeting, the Board discussed Plant Incorporated Pesticides and what information it would want to review in considering requests to register such products. The Board determined that it would want to review information relative to three different issues: (1) the need/benefit for the products, (2) the risks of insect resistance development, and (3) the risks of gene drift. The Board will review Pioneer's product registration request and outline a process for reviewing the three identified issues.

Presentation By: Henry Jennings, Acting Director
Lebelle Hicks, Toxicologist
Representative from Pioneer Hi-Bred and/or Dow AgroSciences

Action Needed: Determination of Process for Considering the Application

4. United Phosphorus, Inc. Request for 24C Registration for Devrinol 50-DF to Control Weeds in Cranberries

United Phosphorus, Inc., is requesting a Special Local Needs (24C) Registration to allow the use of Devrinol (napropamide) on a pre-emergence basis to control annual grasses and broadleaf weeds infesting cranberry bogs. The product is currently registered for use on fruit, nut and vegetable crops. EPA has established a tolerance for napropamide on cranberries and Maine growers are currently allowed to use a 10% granular formulation. However, granulars can be difficult to properly apply in the spring. This request would allow growers greater application flexibility.

Presentation By: Wesley Smith
Pesticides Registrar

Action Needed: Approve/Disapprove 24C Registration Request

5. Workshop Session to Review Comments on Proposed Rulemaking to Chapters 40 & 41

On October 25, 2006, Notice of Agency Rulemaking was published on a series of housekeeping amendments to eight chapters of the Board's rules. Among those was a proposed change to reclassify trichlorfon from limited use to restricted use and delete the special use requirements contained in Chapter 41. At their December 15, 2006 meeting, Board members reached consensus to not adopt the proposed changes, but they indicated they might approve a reclassification if additional requirements were created to minimize the chances of human exposure.

At its January 26, 2007 meeting, the Board reviewed a proposal to exempt certain pond dyes from the applicator licensing requirements contained in Chapter 41. At the same time, it reviewed a new proposal to reclassify trichlorfon from limited use to restricted use. The Board decided to move forward with rulemaking on both proposals.

On February 7, 2007, Notice of Agency Rulemaking was published on the proposed changes. No hearing was scheduled, and a deadline for comments was set for March 9, 2007. The Board will review the written the comments and determine whether it will adopt the proposed amendments at its next meeting, and if so, whether any changes should be made in the proposed language based on the comments.

Presentation By: Henry Jennings
Acting Director

Action Needed: Determine Whether to Adopt Proposed Amendments and/or
Whether Changes Should be Made

6. Preliminary Discussion about Acceptable Systems of “Verifiable Authorization”

A public hearing was held on November 17, 2006 on a series of minor housekeeping amendments to eight different rule chapters. Among the proposed changes was a new provision in Chapter 20 that would require commercial applicators providing ongoing, periodic applications to enter into a written contract with their customers. The Board subsequently modified the requirement based on comments to allow companies to either enter into written contracts or to utilize another system of verifiable authorization approved by the Board. The new provisions will become effective on January 1, 2008. The Board will now begin discussions on what approaches they will likely approve for verifiable authorization.

Presentation By: Henry Jennings
Acting Director

Action Needed: Discuss Appropriate Options for Verifiable Authorization

7. Continued Discussion Concerning Potential Development of Buffer Zones to Protect Surface Water

At the July 21, 2006 Board Meeting, members reviewed their prioritization balloting for discretionary tasks discussed at their 2006 planning session in June. Development of buffer zones to protect water quality ranked as the Board’s number four priority. The Board reviewed a memorandum summarizing surface water data, other state requirements for buffer zones and an initial concept for a future rule at their January 26, 2007 meeting. Members were concerned that using DEP’s definition of state waters may create a rule that is too broad. Consequently, Jeff Dennis from DEP attended the February 16, 2007 meeting and offered some alternative definitions from DEP’s statutes. The staff will present revised regulatory language which includes the preferred definition and new exemption for spraying public health pests.

8. Consideration of Staff Negotiated Consent Agreement with GM Allen & Son, Inc.

On June 3, 1998, the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance in matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine and resolve the matter. In this case, a company applicator applied Sinbar herbicide to blueberry land without wearing chemical-resistant gloves as required by the label, and his pesticide application record was not filled out completely. Also, the company did not post the Restricted Entry Intervals at their Central Information Display as required under the Worker Protection Standard.

Presentation By: Raymond Connors
Acting Chief of Compliance

Action Needed: Approve/disapprove the consent agreement negotiated by staff

9. Consideration of Staff Negotiated Consent Agreement with Cherryfield Foods, Inc.

This case is similar to the preceding agenda topic where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine and resolve the matter. It involved drift of an insecticide from a ground application to a blueberry field onto a lawn and garden located on the opposite side of the highway in Cherryfield. This action constituted a violation of the Board's Chapter 22 regulations requiring applicators to protect sensitive areas from pesticide drift.

Presentation By: Raymond Connors
Acting Chief of Compliance

Action Needed: Approve/disapprove the consent agreement negotiated by staff

10. Consideration of Staff Negotiated Consent Agreement with Greenscapes Lawn Care, Inc.

This case is similar to the preceding agenda topic where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine and resolve the matter. This case involved the commercial application of an herbicide to a property in Kittery that was listed on the 2006 Pesticide Notification Registry. The company only provided notice to the registrant 2 hours and 10 minutes in advance of the application, which is a violation of the registry provisions in Chapter 28.

Presentation By: Raymond Connors
Acting Chief of Compliance

Action Needed: Approve/disapprove the consent agreement negotiated by staff

11. Consideration of Staff Negotiated Consent Agreement with Lucas Tree Expert Company

This case is similar to the preceding agenda topic where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine and resolve the matter. It involved the mistaken application of pesticides to a property in Saco where the owner had not requested and did not wish to receive a mosquito control application. These actions constitute a violation of the Board's statute dealing with the use of pesticides in a careless, negligent or faulty manner.

Presentation By: Raymond Connors
Acting Chief of Compliance

Action Needed: Approve/disapprove the consent agreement negotiated by staff

12. Other Old or New Business

- a. Legislative Update H. Jennings
- b. Aerial Committee Updates
- c. Letter from Mary Dolan
- d. Other

13. Schedule and Location of Future Meetings

April 13, 2007 at the Maine State Performance and Training Facility in Fairfield, and May 11, 2007, and June 22, 2007 are the tentative dates for the next Board meetings. The conference room at Maple Hill Farm has been reserved for a planning session on October 26, 2007.

Adjustments and/or Additional Dates?

14. Adjourn

NOTE: The Board Meeting Agenda and most supporting documents are posted one week before the meeting on the Board website at <http://www.thinkfirstspraylast.org/>.

NOTE: Any person wishing to receive notices and agendas for meetings of either the Medical or Environmental Risk Advisory Committees must submit a request in writing to the Board's office. Any person with technical expertise who would like to volunteer for service on either committee is invited to submit their resume for future consideration.

NOTE: On March 27, 1998, the Board adopted the following policy on accepting written comments:

For regular business meetings, the staff will continue to reproduce letters and short reports delivered to the Augusta office prior to the day of the meeting. Persons sending faxes or electronic submissions should call to verify that their document was received in its entirety and in legible condition. Persons should also be aware that lengthy documents will have to be sent to the State's Central Printing Office which may require up to a three day lead time to get them back. If time is short, those people will be advised to make their own copies. At a minimum, fourteen copies are recommended so as to include the Board, the Assistant Attorney General, the Director, another staff member responsible for the topic, one for the person requesting the agenda article, and three extras for press and other interested parties.